

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 216 of 2006

JULIYAS
V/S
ABDUL MUNAF & ANR.

Mr. SHAMBHOO SINGH, for the appellant / petitioner

Mr. SN BHATT, for the respondent

Date of Order : 13.12.2006

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the appellant and perused the impugned judgment.

Both the learned courts below have decreed the suit on the ground of reasonable and bonafide necessity of the plaintiff by deciding the questions of comparative hardship and partial eviction against the appellant and also on the ground of the appellant having denied the title of the landlord.

Arguing the appeal, the counsel for the appellant in the first instance assailed the findings of the learned courts below on the ground of reasonable and bonafide necessity. However, after hearing learned counsel and perusing the record I am not satisfied that the findings, which are pure findings of fact, are vitiated on any of the grounds available under Section 100 CPC.

In that view of the matter, since the decree for eviction does not require interference on this ground, I

need not go into the other ground of eviction. The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed summarily.

At the request of the learned counsel for the appellant, the appellant is given one years' time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA), J.

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